

104TH CONGRESS
1ST SESSION

H. R. 2524

To amend chapter 171 of title 28, United States Code, to allow claims against the United States under that chapter for damages arising from certain negligent medical care provided members of the Armed Forces.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 24, 1995

Mr. FRANK of Massachusetts introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend chapter 171 of title 28, United States Code, to allow claims against the United States under that chapter for damages arising from certain negligent medical care provided members of the Armed Forces.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CLAIMS FOR NEGLIGENT MEDICAL CARE.**

4 (a) COGNIZABLE CLAIMS.—Chapter 171 of title 28,
5 United States Code, is amended by adding at the end the
6 following new section:

1 **“§ 2681. Certain claims arising out of medical care**
2 **provided members of the Armed Forces**

3 “(a) CLAIMS AUTHORIZED.—Subject to the provi-
4 sions of this chapter, claims may be brought under this
5 chapter for damages against the United States for per-
6 sonal injury or death of a member of the Armed Forces
7 serving on active duty (as defined in section 101(d)(1) of
8 title 10) or on full-time National Guard duty (as defined
9 in section 101(d)(5) of title 10), under the conditions pre-
10 scribed in this section.

11 “(b) LIMITATION TO MEDICAL CARE IN FIXED FA-
12 CILITIES.—The personal injury or death referred to in
13 subsection (a) must have arisen out of noncombatant med-
14 ical or dental care furnished the member of the Armed
15 Forces in a medical facility operated by the Secretary of
16 the military department or any other medical facility oper-
17 ated by the United States.

18 “(c) OFFSET OF OTHER GOVERNMENT BENEFITS BY
19 AMOUNT OF AWARDS OR JUDGMENTS.—If an award or
20 judgment on a claim under this section for personal injury
21 or death of a member of the Armed Forces is paid, then
22 no monetary benefits under title 10, title 37, or chapter
23 11 or 13 of title 38 that are attributable to the personal
24 injury or death from which the claim arose shall be paid
25 to the member or the member’s estate, survivors, or bene-
26 ficiaries, for any month beginning after the date on which

1 the award or judgment becomes final, until the aggregate
 2 amount of benefits that would be paid but for this sen-
 3 tence equals that amount of the award or judgment which
 4 the agency making the award, or the court entering the
 5 judgment, as the case may be, determines is equal to com-
 6 pensatory damages, less any amount of the award or judg-
 7 ment paid for attorneys' fees or costs incurred in connec-
 8 tion with the claim.

9 “(d) DEFINITIONS.—For purposes of this section—

10 “(1) the term ‘medical facility’ means a medical
 11 center, hospital, or clinic that is located in a building
 12 or structure; and

13 “(2) the term ‘personal injury’ does not include
 14 mental or emotional disability unless it is the direct
 15 result of a physical injury.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
 17 for chapter 171 of title 28, United States Code, is amend-
 18 ed by adding at the end the following new item:

“2681. Certain claims arising out of medical care provided members of the
 Armed Forces.”.

19 **SEC. 2. EFFECTIVE DATE.**

20 Section 2681 of title 28, United States Code, as
 21 added by section 1 of this Act, shall apply only with re-
 22 spect to personal injuries or deaths occurring on or after
 23 the date of the enactment of this Act.

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